IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3362 OF 2005

Mahallapa Birappa Nimbal ...Applicant

V/s.

The State of Maharashtra ...Respondent

Shri. Ujwal R. Agandsurve for the Applicant.
Shri. R.Y. Mirza A.P.P. for the Respondent.

CORAM : A.S. OKA, J.
DATED : JUNE 28, 2005.

P.C.:

1. Heard Advocate for the Applicant and learned A.P.P. for the State. An offence has been registered against the Applicant and co-accused under section 302 read with section 34 of the Indian Penal Code. Investigation is complete and the chargesheet has been filed. The learned Sessions Judge rejected the Application for bail filed by the Applicant on the ground that there is a recovery of knife and blood stained clothes at the instance of the Applicant.

2. The learned Advocate for the Applicant has relied on order dated 6th June, 2005 passed by this Court in Criminal Application No.3363 of 2005 in case of the co-accused. By the said order the said co-accused was ordered to be enlarged on bail. The learned Counsel appearing for the Applicant is claiming parity.

3. The learned A.P.P. submitted that the allegations made in the prosecution case against the Applicant herein and the Applicant in Criminal Application No.3363 of 2005 are practically the same. He submitted that the only difference between the two cases is that at the instance of the Applicant in Criminal Application No.3363 of 2005 there is no recovery and at the instance of the Applicant in this Application there is a recovery.

4. If the allegations made by the prosecution regarding the role played by the Applicant in this Application and the Applicant in the companion Application who has been ordered to be enlarged on bail is one and the same, relief cannot be denied to the Applicant considering the facts and circumstances of this case only on the ground that there is a recovery made at the instance of the Applicant. In my view considering the material available on record and considering the fact that the Applicant is in custody from 13th February, 2005, a case is made out for enlarging the Applicant on bail.

5. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with C.R.No.01 of 2005 registered with Akkalkot South Police Station, Solapur subject to furnishing P.R.Bond in the sum of Rs.10,000/-(Rupees Ten Thousand Only) with two sureties in the like amount.

ii) The Applicant will be enlarged on bail subject to the condition that the Applicant will not make any attempt to influence or pressurise or threaten the prosecution witnesses.

iii) The bail is granted subject to further condition that the Applicant will co-operate with the learned Trial Judge in early disposal of the trial. In case, the learned Trial Judge feels that the Applicant is delaying the trial, the learned Trial Judge will be at liberty to record the same in the Roznama of the proceedings and such conduct of the Applicant can be a

ground for the cancellation of bail.

JUDGE